



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0109; Notice 1]

Cooper Tire & Rubber Company, Receipt of Petition for Decision
of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Receipt of Petition

SUMMARY: Cooper Tire & Rubber Company (Cooper),¹ has determined that certain Cooper brand tires manufactured between May 20, 2012 and June 16, 2012, do not fully comply with paragraph S5.5 of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Cooper has filed an appropriate report dated July 5, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), Cooper submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Cooper's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any

¹ Cooper Tire & Rubber Company, is a manufacturer of replacement equipment and is registered under the laws of the state of Delaware.

agency decision or other exercise of judgment concerning the merits of the petition.

VEHICLES INVOLVED: Affected are approximately 1,080 size P225/70R14 El Dorado Legend GT brand standard load tires manufactured in Mexico by Cooper's affiliate, Corporación de Occidente S.A. de C.V., between May 20, 2012, and June 16, 2012.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 1,080² tires that Cooper no longer controlled at the time it determined that the noncompliance existed.

NONCOMPLIANCE: Cooper explains that the noncompliance is that, due to a mold labeling error. The sidewall marking on the tires incorrectly describes the actual number of plies in the tread area of the tires as required by paragraph S5.5(f).

² Cooper's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Cooper as an equipment manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 1,080 affected tires. However, a decision on this petition will not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper notified them that the subject noncompliance existed.

Specifically, the tires in question were inadvertently manufactured with "TREAD 2 PLY STEEL + 2 PLY POLYESTER; SIDEWALL 2 PLY POLYESTER." The labeling should have been "TREAD 1 PLY NYLON + 2 PLY STEEL + 2 PLY POLYESTER; SIDEWALL ALL 2 PLY POLYESTER."

RULE TEXT: Paragraph S5.5 of FMVSS No. 139 requires in pertinent part:

S5.5Tire markings. Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches. ...

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;

(f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different;...

SUMMARY OF COOPER'S ANALYSIS AND ARGUMENTS:

Cooper believes that while the noncompliant tires are mislabeled; the subject tires in fact have more tread plies than

indicated and meet or exceed all performance requirements as required in part by FMVSS No. 139.

In addition, Cooper states that it has corrected the problem that caused the noncompliance so that it will not reoccur in future production.

In summation, Cooper believes that the described noncompliance of its tires is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

COMMENTS: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) website at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All

comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

COMMENT CLOSING DATE: (insert date 30 days after Publication Date).

AUTHORITY: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8)

ISSUED ON:February 1, 2013

Claude H. Harris, Director
Office of Vehicle Safety Compliance

BILLING CODE: 4910-59-P